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IN DEFENSE OF COLLECTIVE BARGAINING

About 2,500 high school seniors competed this year for 43 college scholarships sponsored by the California Labor Federation. The seniors had the option of answering the following question, among others, on their qualifying exam:

- "Historically, collective bargaining developed in the competitive, 'free market' U.S. economy as a democratic and equitable process for representing the interests of groups of workers in their relationships with their employers. Discuss the following:
- How has this process brought more democracy and equity to the workplace?
 - Why is it necessary in a free society to develop procedures which permit democracy and equity in the workplace?"

Following are some grading guidelines for this question, provided by the author of this LCR for the consideration of readers of the examination papers and final judges for the scholarship awards. The guidelines are based on materials and readings which were available to the competing seniors, many of whom scored high on this question.

1. What is the role of the worker in a "competitive, free market economy"? Such an economy is a theoretical abstraction, but many have been misled to believe that it is a realistic description of the U.S. economy. The first condition for such an economy is that everyone must be subject to simple and rigid "laws" of supply and demand, which set the market prices of all materials and products. A worker is a commodity like any other commodity in this economy, and his price (i.e., his total wage rate, or his "labor cost") is dictated by the supply of and demand for labor. In theory, the employer does not set prices, because of course there are no monopolies, and the worker cannot set wages; instead, both are determined by activity in the "free marketplace," and by competitive pressures on workers and producers alike. But the labor supply is usually greater than the demand for labor, and the employers keep the books. They therefore make the final decisions about who gets hired and about the terms and conditions of employment. Workers who form unions and seek to influence wages and labor costs are engaging in conspiracies in restraint of free trade, i.e., they are monopolies. In the "free market" U.S. economy of the early 1800s, unions were legally defined as such "conspiracies." Until the Supreme Court's decision in *Commonwealth v. Hunt*, in 1842, if the worker didn't like the terms and conditions of employment arbitrarily offered to him, his only recourse was to find another way to make a living.

2. How did unions develop in the competitive "free market" U.S. economy? In the second half of the last century, rapid industrial development in the east and an expanding frontier in the west opened up more and more jobs. Employers formed ever larger enterprises, and unions grew rapidly. But the ever increasing supply of immigrant workers left the employers in control of the terms and conditions of employment. Unions focused not on collective bargaining during this period, but on political and legislative goals—especially shorter hours, free public education, and the elimination of child labor. Individual workers still had alternatives: they could become independent producers, as many did, especially those with skills, and they could escape to the frontier.

Before the turn of the century, craft workers in the AFL, under Gompers' leadership, developed a new focus on collective bargaining rights. The employers had consolidated their operations into huge monopolies (especially in railroads, mining, metal processing, and utilities), which were far removed from the "free market" theory of competitive enterprise. They controlled the courts, which now, in a cruel irony of history, defined the unions as monopolies, and made them subject to injunctive restraint under anti-trust laws designed to curb the employer monopolists. This period of struggles for the right to form unions, and to bargain collectively on the terms and conditions of employment, culminated in the employers' open shop drive of the 1920s. The odds were heavily stacked against the unions, but they survived. Craft workers with greater skills and greater bargaining power had more success in establishing collective bargaining rights. And a new legislative framework led to bargaining rights for thousands of railroad workers in the late 1920s, and became the precedent for New Deal labor legislation in the 1930s.

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3. How has collective bargaining brought democracy and equity to the workplace? The Wagner Act of 1935 established the basis for the organizing success of the CIO unions in the mass production industries. From the mid 1930s until the Taft-Hartley Act of 1947, millions of workers joined unions, gained recognition, authorized their representatives to meet with their employers in collective bargaining, and gained new strength, dignity, and greater equality in the workplace—which a single employee could not achieve by dealing individually with the owners of vast aggregations of capital. In the Taft-Hartley Act, the employers succeeded in weakening the legislative framework for collective bargaining, but labor pulled its forces together in the merger of the AFL and the CIO in the 1950s. The years until the early 1970s were then characterized by stability in labor relations; by labor's slow but steady gains in organizing, especially in service trades and in the public sector; and by increased sharing of the mutual responsibility of employers and employees in the development of orderly collective bargaining procedures. These procedures led to (a) joint determination of wages, terms and conditions of employment; (b) enhanced job security and economic protection of workers; and (c) development of machinery for the settlement of disputes and grievances arising during the term of the basic labor contract. The latter was especially significant in bringing democracy and equity to the workplace, because it permitted the active participation of workers in the day-to-day decisions which give meaning to the collective bargaining agreement, and establish its terms in the workplace.

4. Why is it necessary to develop procedures which permit democracy and equity in the workplace? By the 1970s, American industrial organizations were again consolidating, merging, and forming vast new conglomerates—this time to function on a multi-national basis. Their capital resources and their economic power began to exceed that of many of the countries in which they established new operations. Now U.S. corporations have revived the historical irony of the Gompers era, and reinforced it with abstract “free market” theories tracing back at least to the early 1800s. Now they seek to create a “union free” environment; now they seek to take out of labor agreements many of the hard-won gains made by workers through successful efforts in collective bargaining over the past few decades; now they lobby successfully for legislation and regulations to weaken basic labor laws and protective standards. Now we have again the suspicion that unions are conspiracies in restraint of “free market” trade, or monopolies, or “special interests,” or obstacles in the path of the managers of huge aggregations of capital, who must have freedom to make decisions based solely on “free market” principles (now presented as “supply side” economic principles). This approach ignores completely the monopoly power of most huge corporations. It ignores completely the rights of workers to have a voice in determining the conditions of their employment, as this right was established in the law in 1935, and as it has been developed in practice in the decades since.

A free society is not one which is free only for employers and corporations to use capital as they think the “free market” dictates, anywhere in the world. A free society requires freedom for workers as well. Some measure of worker freedom, democracy, and equity in the workplace has been gained over the years through collective bargaining, and it can be lost in the effort which many employers and corporations and radical conservatives now make to destroy the institution of free collective bargaining—for the sake of promoting the greater glory of the “free market” for capital.

A society which does not permit and encourage the development of any procedure to achieve democracy and equity in the workplace; which seeks to rely only on the supply or the demand for labor, on a world-wide basis, to determine wage rates and total labor costs; which seeks to protect and expand only the “free market” rights of capital; and which seeks to eliminate social programs developed over the last century or longer—including child labor protection—such a society cannot be a free society for workers.

In such a society, no escape from the employer's final and absolute authority in the workplace is possible simply by leaving for the open frontier. Few workers have the skills or the capital to set up as independent producers or contractors, and fewer still can hope to raise the capital to buy the company, become the employer themselves, and maintain democracy and equity in their own workplace.

In today's highly institutionalized U.S. economy, the “free market” competitive ideology borrowed from the early 1800's and the Gompers era has become a myth, especially useful to corporate organizations seeking to eliminate all possible restraints, from governments or from unions, on their pursuit of economic power, to serve their own economic interests at home and abroad. In the reality of this kind of economy, as opposed to its popular mythology, the only collective approach which has so far proven to be effective in permitting workers to have some measure of democracy and equity in the workplace is the institution of collective bargaining—which many of the most powerful employers in our country now seek to destroy.

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